

## **REMARKS**

Claims 1 and 3-7 are pending. By this Amendment, claims 1, 3, 5 and 6 are amended and claim 2 is canceled. Claims 3, 5 and 6 are amended for dependency so that the claims depend from claim 1.

No new matter is added to the application by this Amendment. The features added to claim 1 find support in canceled claim 2.

Reconsideration of the application is respectfully requested.

### **I. Rejection Under 35 U.S.C. §103**

Claims 1-7 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,279,458 to Sham et al. (hereinafter "Sham"). This rejection is respectfully traversed.

Prior to discussing the merits of the Examiner's position, the undersigned reminds the Examiner that the determination of obviousness under §103(a) requires consideration of the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1 [148 USPQ 459] (1966): (1) the scope and content of the prior art; (2) the differences between the claims and the prior art; (3) the level of ordinary skill in the pertinent art; and (4) secondary considerations, if any, of nonobviousness. *McNeil-PPC, Inc. v. L. Perrigo Co.*, 337 F.3d 1362, 1368, 67 USPQ2d 1649, 1653 (Fed. Cir. 2003). There must be some suggestion, teaching, or motivation arising from what the prior art would have taught a person of ordinary skill in the field of the invention to make the proposed changes to the reference. *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). But see also *KSR International Co. v. Teleflex Inc.*, 82 USPQ2D 1385 (U.S. 2007).

A methodology for the analysis of obviousness was set out in *In re Kotzab*, 217

F.3d 1365, 1369-70, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000) A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field. Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."

It must also be shown that one having ordinary skill in the art would reasonably have expected any proposed changes to a prior art reference would have been successful. *Amgen, Inc. v. Chugai Pharmaceutical Co.*, 927 F.2d 1200, 1207, 18 USPQ2d 1016, 1022 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894, 903-04, 7 USPQ2d 1673, 1681 (Fed. Cir. 1988); *In re Clinton*, 527 F.2d 1226, 1228, 188 USPQ 365, 367 (CCPA 1976). "Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure." *In re Dow Chem. Co.*, 837 F.2d 469, 473, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988).

The Patent Office acknowledges that Sham fails to teach or suggest an actuating mechanism which is provided at a joint between the upper portion and the lower portion (see page 2 of the Office Action). However, the Patent Office alleges that the actuating mechanism at the joint between the upper portion and lower portion would have been an obvious design choice because Applicant has not disclosed that such a design choice solves any stated problem and it appears that the invention would perform equally well. Applicants respectfully disagree with these allegations.

Nowhere does Sham teach or suggest a coffee maker as recited in claim 1 in which an upper portion and a lower portion are movably connected to each other, wherein an actuating mechanism with a structure and configuration as specifically defined in amended claim 1 is provided at a joint between the upper portion and the lower portion for driving the upper portion to move up and down relative to the lower portion.

The present invention is a coffee maker having an adjustable height (see page 1, line 26 of the present application). Applicants have surprisingly found that the problems in the art have been alleviated or eliminated by the presently claimed coffee maker having the actuating mechanism (as recited in claim 1) at a joint between the upper portion and the lower portion for driving the upper portion to move up and down relative to the lower portion. By using the presently claimed coffee maker, the upper portion of the coffee maker can move up and down through the actuating mechanism, which overcomes the disadvantage that the coffee makers of prior art have a fixed height. The presently claimed coffee maker can satisfy various users who may have coffee cups with different heights without the need of controlling the coffee cups by hand during use (see page 2, lines 27-31 of the present application). Thus, Applicants submit that the presently claimed coffee maker having the actuating mechanism as required by claim 1 is distinguishable from the automated drip-type coffee making machine according to Sham because the presently claimed actuating mechanism is used for a particular purpose and solves a particular problem.

Sham teaches a coffee making machine having a housing that is of conventional form found in many household coffee making machines of the drip brewing type (see col. 2, lines 31 and 32 of Sham). As shown in FIG. 1 of Sham, the housing does not have a

joint with an actuating mechanism for moving the top portion up and down relative to the bottom portion. The top portion of the housing according to Sham is fixed, stationary and non-movable with respect to the bottom portion of the housing (see FIG. 1 of Sham). Nowhere does Sham teach or suggest that there is a joint dividing and movably connecting the top and bottom portions of the housing. The top portion of the housing of Sham clearly does not move and is not movable with respect to the bottom portion of the housing.

Thus, Sham fails to teach or suggest a coffee maker having an actuating mechanism provided at a joint between the upper portion and the lower portion for driving the upper portion to move up and down relative to the lower portion, wherein the actuating mechanism comprises a cam, a knob, and a knob sleeve, wherein the cam is located at a bottom of the upper portion and in contact with the bottom of the upper portion, the knob is fixedly connected to the cam to drive the cam to turn, and the knob sleeve conforms the knob and is turnable relative to the knob as required by amended claim 1.

Because these features of independent claim 1 are not taught or suggested by Sham, this reference would not have rendered the features of claims 1 and 3-7 obvious to one of ordinary skill in the art.

Thus, reconsideration and withdrawal of this rejection are respectfully requested.

## **II. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1 and 3-7 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

**ADDITIONAL FEE**

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,

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